

FILED MAR 12 1999

By Haggerty

H.B. No. 3570

A BILL TO BE ENTITLED

AN ACT

relating to supplemental environmental projects undertaken in lieu of certain penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 7.067, Water Code, is amended to read as follows:

Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS. (a) The commission may compromise, modify, or remit, with or without conditions, an administrative penalty imposed under this subchapter. In determining the appropriate amount of a penalty for settlement of an administrative enforcement matter, the commission may consider a respondent's willingness to contribute to supplemental environmental projects that are approved by the commission, giving preference to projects that benefit the community in which the alleged violation occurred. The commission may approve a supplemental environmental project with activities in territory of the United Mexican States if the project substantially benefits territory in this state in a manner described by Subsection (b). The commission may not approve a project that is necessary to bring a respondent into compliance with environmental laws or that is necessary to remediate environmental harm caused by the respondent's alleged violation.

(b) In this section, "supplemental environmental project" means a project that prevents pollution, reduces the amount of

1 pollutants reaching the environment, enhances the quality of the
2 environment, or contributes to public awareness of environmental
3 matters. [~~The term does not include projects that are necessary to~~
4 ~~bring the respondent into compliance with environmental laws or~~
5 ~~that are necessary to remediate the environmental harm caused by~~
6 ~~the alleged violation.~~]

7 SECTION 2. This Act takes effect September 1, 1999.

8 SECTION 3. The importance of this legislation and the
9 crowded condition of the calendars in both houses create an
10 emergency and an imperative public necessity that the
11 constitutional rule requiring bills to be read on three several
12 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1st Printing

By Haggerty

H.B. No. 3570

Substitute the following for H.B. No. 3570:

By Allen

C.S.H.B. No. 3570

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(1) that is necessary to bring a respondent into compliance with environmental laws;

(2) that is necessary to remediate an environmental harm caused by the respondent's alleged violation; or

(3) for which the project activities will take place

1 at a location that is more than 50 miles from the location of:

2 (A) the acts of the respondent's alleged
3 violation; or

4 (B) the environmental harm caused by the
5 respondent's alleged violation.

6 (b) In this section, "supplemental environmental project"
7 means a project that prevents pollution, reduces the amount of
8 pollutants reaching the environment, enhances the quality of the
9 environment, or contributes to public awareness of environmental
10 matters. [~~The term does not include projects that are necessary to~~
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18 constitutional rule requiring bills to be read on three several
19 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

4/19/99
(date)

Sir:

We, your COMMITTEE ON ENVIRONMENTAL REGULATION

to whom was referred HB 3570 have had the same under consideration and beg to report back with the recommendation that it

- () do pass, without amendment.
() do pass, with amendment(s).
(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
(X) yes () no A fiscal note was requested.
() yes (X) no A criminal justice policy impact statement was requested.
() yes (X) no An equalized educational funding impact statement was requested.
() yes (X) no An actuarial analysis was requested.
() yes (X) no A water development policy impact statement was requested.
() yes (X) no A tax equity note was requested.
() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Chisum, Chair	✓			
Allen, Vice-chair	✓			
Culberson	✓			
Dukes	✓			
Howard	✓			
Kuempel	✓			
Palmer	✓			
Talton		✓		
Zbranek	✓			

Total 8 aye
 1 nay
 0 present, not voting
 0 absent

Warren Chisum
CHAIR

BILL ANALYSIS

Office of House Bill Analysis

C.S.H.B. 3570
By: Haggerty
Environmental Regulation
4/22/1999
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Section 7.067 of the Water Code authorizes the Texas Natural Resource Conservation Commission (TNRCC) to compromise, modify, or set aside administrative penalties imposed on businesses or other entities for violations of environmental laws or agency rules. One factor for TNRCC to use to determine the amount of an administrative penalty is the violator's willingness to contribute to a "supplemental environmental project" (SEP) approved by TNRCC. SEPs are projects designed to benefit the environment by preventing or reducing pollution, enhancing the quality of the environment, or contributing to public awareness of environmental matters. Under current law, SEPs are essentially limited to territory in Texas, even though there are often instances, particularly on the Texas-Mexico border, where SEPs located wholly or partially in Mexico would provide environmental benefits in Texas.

C.S.H.B. 3570 authorizes TNRCC to approve a supplemental environmental project with activities in the territory of the United Mexican States if the project substantially benefits territory in this state in a manner described by this section. This bill also prohibits TNRCC from approving a project:

- that is necessary to bring a respondent into compliance with environmental laws;
- that is necessary to remediate environmental harm caused by the respondent's alleged violation; or,
- for which the project activities will take place at a location that is more than 50 miles from the location of the acts of the respondent's alleged violation or the environmental harm caused by the respondent's alleged violation.

RULEMAKING AUTHORITY

It is the opinion of the Office of House Bill Analysis that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7.067, Water Code, to authorize the Texas Natural Resource Conservation Commission (TNRCC) to approve a supplemental environmental project with activities in territory of the United Mexican States if the project substantially benefits territory in this state in a manner described by this section. Prohibits TNRCC from approving a project:

- that is necessary to bring a respondent into compliance with environmental laws;
- that is necessary to remediate environmental harm caused by the respondent's alleged violation; or,
- for which the project activities will take place at a location that is more than 50 miles from the location of the acts of the respondent's alleged violation or the environmental harm caused by the respondent's alleged violation.

Makes a conforming change.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3570 modifies the original in SECTION 1 (Section 7.067, Water Code) to include a provision prohibiting the Texas Natural Resource Conservation Commission from approving a project for which the project activities will take place at a location that is more than 50 miles from the location of the acts of the respondent's alleged violation or the environmental harm caused by the respondent's alleged violation.

SUMMARY OF COMMITTEE ACTION

HB 3570

April 12, 1999 2:00PM
Considered in public hearing
Testimony taken in committee
Left pending in committee

April 19, 1999 2:00PM or upon adjournment
Considered in public hearing
Committee substitute considered in committee
Reported favorably as substituted

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WITNESS LIST

HB 3570
HOUSE COMMITTEE REPORT
Environmental Regulation Committee

April 12, 1999 - 2:00PM

On: Phillips, Jim (Texas Natural Resource Conservation
Commission)

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

April 20, 1999

TO: Honorable Warren Chisum, Chair, House Committee on Environmental Regulation

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB 3570** by Haggerty (relating to supplemental environmental projects undertaken in lieu of certain penalties), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Natural Resource Conservation Commission

LBB Staff: JK, DE, NS

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 22, 1999

TO: Honorable Warren Chisum, Chair, House Committee on Environmental Regulation

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB3570 by Haggerty (Relating to supplemental environmental projects undertaken in lieu of certain penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Natural Resource Conservation Commission

LBB Staff: JK, DE, NS

H.B. No. 3570

By Haggerty

**A BILL TO BE ENTITLED
AN ACT**

Relating to supplemental environmental projects undertaken
in lieu of certain penalties

MAR 12 1999

Filed with the Chief Clerk

MAR 18 1999

Read first time and referred to Committee on Environmental Regulation

APR 19 1999

Reported favorably (~~unanimously~~)
(as substituted)

APR 26 1999

Sent to Committee on (Calendars)
(~~Local & General Calendars~~)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 10 1999- Motion to postpone further consideration
of HB 3570 No. 3570 until Wednesday
May 12, 1999 at 10:00A
prevailed by a non-record vote.

MAY 12 1999 HB 3570 LAID ON TABLE
SUBJECT TO CALL

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)